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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/556,565	04/24/2000	Timothy M. Moore	204849	7167

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EXAMINER	
MILORD, MARCEAU	
ART UNIT	PAPER NUMBER

2682

8

DATE MAILED: 10/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/556,565

Applicant(s)

MOORE ET AL

Examiner

Marceau Milord

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 April 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 24 April 2000 is: a) ☐ approved b) ☒ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7 6) ☐ Other:

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 2, 8, 14 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 9 of copending Application No. 09302735. Although the conflicting claims are not identical, they are not patentably distinct from each other because the adding of the features of a connection-specific driver layer receives

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the device control commands and data encapsulated in the connection-independent format, translates the device control commands and data encapsulated in the connection independent format into connection-specific device control commands and data, and transmits the connection-specific device control commands and data to the wireless device is not non-obvious over the claims of copending Application 09302735 and therefore is not patentably distinct from each other.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 2-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mahany et al (US Patent No 5949776) in view of Nevo et al (US Patent No 66600726 B1).

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Regarding claims 2-7, Mahany et al discloses a method of creating a device driver for a wireless device (20 of fig. 1 a or 35 of fig. 1b or 61, 62, 64 of fig. 1c), the method comprising the steps of: abstracting device control commands and data into a device-independent format; establishing (23 of fig. 1a and 43 of fig. 1b) a connection-independent driver layer, wherein the connection-independent driver layer receives the device control commands and data and encapsulates the device control commands and data into a connection-independent format (col. 5, lines 12-45; col. 9, line 46- col. 10, line 41); establishing (22, 44 of figs. 1a-b) an intermediate driver layer, wherein the intermediate driver layer receives the device control commands and data encapsulated in the connection-independent format and passes the device control commands and data encapsulated in the connection-independent format to a connection-specific driver layer (col. 5, line 47- col. 6, line 15; col. 11, line 59- col. 12, line 51); and establishing (3955 of fig. 44) the connection-specific driver layer, wherein the connection-specific driver layer receives the device control commands and data encapsulated in the connection-independent format (figs. 42-44; col. 43, line 25- col. 44, line 29; col. 59, line 55- col. 60, line 51).

However, Mahany et al does not specifically disclose the steps of translating the device control commands and data encapsulated in the connection independent format into connection-specific device control commands and data, and transmitting the connection-specific device control commands and data to the wireless device.

On the other hand, Nevo et al, from the same field of endeavor, discloses in figure 1, a wireless device 100 which is provided with wireless transceivers 102a and 102b to transmit and receive signals wirelessly in accordance with a first and a second wireless communication protocol, to enable device 100 to be communicatively coupled to devices 104a and devices 104b

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of wireless networks 108a and 108b respectively. Furthermore, wireless device 100, includes controller manager to control the operation of wireless transceivers respectively (col. 3, lines 28-67; col. 7, line 14- col. 8, line 4; col. 10, lines 30-65). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the technique of Nevo to the communication system of Mahany in order to provide a device that can be operated concurrently in multiple wireless protocols.

Regarding claims 8-13, Mahany discloses a method of communicating with a wireless device (20 of fig. 1 a or 35 of fig. 1b or 61, 62, 64 of fig. 1c), the method comprising the steps of: abstracting device control commands and data into a device-independent format; encapsulating the device control commands and data in the device-independent format into a connection-independent format (figs. 42-44; col. 43, line 25- col. 44, line 29; col. 59, line 55- col. 60, line 51).

However, Mahany et al does not specifically disclose the steps of translating the device control commands and data encapsulated in the connection independent format into connection-specific device control commands and data, and transmitting the connection-specific device control commands and data to the wireless device.

On the other hand, Nevo et al, from the same field of endeavor, discloses in figure 1, a wireless device 100 which is provided with wireless transceivers 102a and 102b to transmit and receive signals wirelessly in accordance with a first and a second wireless communication protocol, to enable device 100 to be communicatively coupled to devices 104a and devices 104b of wireless networks 108a and 108b respectively. Furthermore, wireless device 100, includes controller manager to control the operation of wireless transceivers respectively (col. 3, lines 28-

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67; col. 7, line 14- col. 8, line 4; col. 10, lines 30-65). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the technique of Nevo to the communication system of Mahany in order to provide a device that can be operated concurrently in multiple wireless protocols.

Regarding claims 14-19, Mahany et al discloses a computer program product for creating a device driver for a wireless device, the computer program product comprising:
a computer-readable medium carrying computer-executable instructions for abstracting device control commands and data into a device-independent format (col. 20, lines 36-59; col. 49, line 37- col. 50, line 48); establishing (23 of fig. 1a and 43 of fig. 1b) a connection-independent driver layer, wherein the connection-independent driver layer receives the device control commands and data and encapsulates the device control commands and data into a connection-independent format; establishing an intermediate driver layer, wherein the intermediate driver layer receives the device control commands and data encapsulated in the connection-independent format and passes the device control commands and data encapsulated in the connection-independent format to a connection-specific driver layer (col. 5, lines 12-45; col. 9, line 46- col. 10, line 41; col. 19, lines 15-59); and establishing (3955 of fig. 44) the connection-specific driver layer, wherein the connection-specific driver layer receives the device control commands and data encapsulated in the connection-independent format (figs. 42-44; col. 43, line 25- col. 44, line 29; col. 59, line 55- col. 60, line 51).

However, Mahany et al does not specifically disclose the steps of translating the device control commands and data encapsulated in the connection independent format into connection-

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specific device control commands and data, and transmitting the connection-specific device control commands and data to the wireless device.

On the other hand, Nevo et al, from the same field of endeavor, discloses in figure 1, a wireless device 100 which is provided with wireless transceivers 102a and 102b to transmit and receive signals wirelessly in accordance with a first and a second wireless communication protocol, to enable device 100 to be communicatively coupled to devices 104a and devices 104b of wireless networks 108a and 108b respectively. Furthermore, wireless device 100, includes controller manager to control the operation of wireless transceivers respectively (col. 3, lines 28-67; col. 7, line 14- col. 8, line 4; col. 10, lines 30-65). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the technique of Nevo to the communication system of Mahany in order to provide a device that can be operated concurrently in multiple wireless protocols.

LaPorta et al US Patent No 5918158 discloses a two-way wireless messaging system including a messaging network and a two-way wireless messaging device which receives and replies to messages having dynamic message components to and from the messaging network.

Mizutani et al US Patent No 6603744 B2 discloses a wireless hub, connected to the USB bus of a computer, and a wireless port, connected to a USB interface of a peripheral device.

Guedalia US Patent No 6480711 B1 discloses a method and system for wireless data communication, including the steps of receiving an input request, filtering data from at least one database to produce filtered data in response to the input request.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marceau Milord whose telephone number is 703-306-3023. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian C. Chin can be reached on 703-308-6739. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.


MARCEAU MILORD

Marceau Milord

Examiner

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